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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,740	06/13/2001	Scott D. Ritche	P5664	5874
32658	7590	08/24/2005	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEEN ST. DENVER, CO 80202			DUONG, THOMAS	
			ART UNIT	PAPER NUMBER
			2145	
DATE MAILED: 08/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,740	RITCHE, SCOTT D.	
	Examiner	Art Unit	
	Thomas Duong	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 June 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the applicants Amendment filed on June7, 2005.

Applicant amended *claim 1*. *Claims 1-8* are presented for further consideration and examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. *Claims 1-8* are rejected under 35 U.S.C. 103(a) as being unpatentable over Groath (US006571285B1) and in view of Nixon et al. (US006513060B1).
4. With regard to *claim 1*, Groath discloses,
 - *receiving an error alert*; (Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-24)
Groath teaches of a method of providing service assurance for a network by "*monitoring a network for events and checking system functions and resources*.
Such events can include alarms, faults, alerts, etc." (Groath, col.10, lines 4-6).
 - *processing the error alert to create a subset of error data from the failure information including an identification of an affected one of the network devices*;
(Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-32; col.11, lines 43-62)

Groath teaches of a “*collector [that] may be used to collect system information including events and performance data*” (Groath, col.10, lines 26-27). “*The data collected on the status of the network is manipulated and stored in a database*” (Groath, col.10, lines 21-22) for conveying graphically to the appropriate user.

- *determining whether the error alert was generated due to an operating status of the identified network device or due to a fault in one of the communication pathways by remotely performing a diagnostic test on the identified network device;* (Groath, col.2, lines 7-23; col.10, line 64 – col.11, line 3; col.118, lines 11-44)

Groath teaches of a step of “*determining the type of event that occurred*” (Groath, col.10, line 66) and “*generating at least one notification action associated with the determined type of event*” (Groath, col.10, lines 66 – col.11, line 1).

- *creating a job ticket to initiate device or network service, wherein the job ticket includes at least a portion of the failure information from the error alert and information gathered in the diagnostics performing.* (Groath, col.2, lines 7-23; col.10, line 33 – col.11, line 10; col.119, line 64 – col.120, line 9)

Groath teaches of a generating “*at least one notification action ... based upon the occurrence of the event. The notification action may include an alphanumeric page, an e-mail message, a resolution script, a remedy trouble ticket, and/or a log message*” (Groath, col.10, lines 57-61). Groath also states that the notifier “*is able to forward alerts to specific individuals based on the contents of the alert*” (Groath, col.10, lines 40-41) showing that the notification message include at least a portion of the detected event.

- *querying a plurality of databases to determine the physical location of the affected device as well as a specific contact person in an appropriate maintenance department responsible for the affected device.* (Groath, col.2, lines 7-23; col.10, line 25 – col.11, line 20; col.34, line 65 – col.35, line 20; col.35, lines 39-51; col.119, line 64 – col.120, line 9)

Groath teaches of a generating “*at least one notification action ... based upon the occurrence of the event. The notification action may include an alphanumeric page, an e-mail message, a resolution script, a remedy trouble ticket, and/or a log message*” (Groath, col.10, lines 57-61). Groath also states that the notifier “*is able to forward alerts to specific individuals based on the contents of the alert*” (Groath, col.10, lines 40-41) showing that the notification message include at least a portion of the detected event to be forwarded to a specific individual according “*to the content of the alert and the time/day*” (Groath, col.10, lines 40-42) of the occurrence of the alert. In addition, Groath teaches of utilizing a data model containing information such as: network element information, performance metric information, detailed time data, network element geographic location data, and network element event data.

However, Groath does not explicitly disclose,

- *based on the determining, performing diagnostics on the identified network device or the communication pathway that caused generation of the error alert; and*

Nixon teaches,

- *based on the determining, performing diagnostics on the identified network device or the communication pathway that caused generation of the error alert; and* (Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49)

Nixon teaches of performing ping and trace route operations to determine the operating status of the network device and storing information, such as the trace route time, in the database for later analysis.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Nixon with the teachings of Groath to enhance a system that "*is capable of monitoring a network for events and checking system functions and resources. Such events can include alarms, faults, alerts, etc*" (Groath, col.10, lines 4-6) by actively performing ping and trace route operations to check the operating status of the network device. In response to an occurrence of a network event, the type of the occurred event is determined and "*at least one notification action is generated based upon the event and it may include an alphanumeric page, an e-mail message, a resolution script, a remedy trouble ticket, and/or a log message*" (Groath, col.10, lines 57-61).

5. With regard to claim 2, Groath and Nixon disclose,

- *wherein the determining includes running Packet Internet Groper (PING) on an IP address on a first side of the identified network device and on an IP address on a second side of the identified network device* (Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49; Groath, col.118, lines 11-44)

Nixon teaches of performing ping and trace route operations to determine the operating status of the network device and storing information, such as the trace route time, in the database for later analysis.

6. With regard to claim 3, Groath and Nixon disclose,

- *wherein the error alert was generated due to a fault in one of the communication pathways, and the method further including determining a last accessible IP address in the communication pathway, incrementing a fault count for the last accessible IP address, and determining whether the incremented fault count exceeds a threshold, wherein the job ticket creating is only performed when the threshold is exceeded.* (Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-24; col.117, line 45 – col.118, line 44; Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49)

7. With regard to claims 4-6, Groath and Nixon disclose,

- *wherein the error alert was generated due to an operating status of the identified network device and wherein the diagnostics performing includes performing a series of device-oriented tests.* (Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-24; col.117, line 45 – col.118, line 44; Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49)
- *wherein the job ticket creating is performed only when each of the series of device-oriented tests indicates the identified network device is faulting and wherein the series includes running Packet Internet Groper (PING) on the identified network device, running rup on the identified network device, and running Traceroute software to analyze network connections to the identified*

network device. (Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-24; col.117, line 45 – col.118, line 44; Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49)

It is well known in the networking art to use the “*ping*”, “*traceroute*”, and “*rup*” commands to diagnose networking devices. Specifically, the “*ping*” command is used for fault isolation. It is used to verify that a network interface is up and running. It also useful in providing round-trip times and packet loss statistics. The “*traceroute*” command is used to show the network path that the packets take to arrive at a destination device. The “*rup*” command to display a summary of the current system status of devices on the network including the current time of day, how long the system has been up, and the load averages, etc.

- *wherein the method further includes determining whether the identified network device is included on an outage list, and further wherein the job ticket creating is not completed when the identified network device is determined to be included on the outage list.* (Groath, col.120, lines 7-13)

8. With regard to claims 7-8, Groath and Nixon disclose,
 - *further including providing a display on a user interface of a portion of the subset of error data from the error alert processing and status of the job ticket creating.* (Groath, col.2, lines 7-23; col.10, line 33 – col.11, line 10; col.119, line 64 – col.120, line 9)
 - *wherein when the error alert was generated due to a fault in one of the communication pathways, at least periodically checking the communication pathway that caused the generation of the error alert for faults, and wherein results of the checking are included in the display on the user interface.* (Groath,

col.2, lines 7-23; col.10, line 33 – col.11, line 10; col.119, line 64 – col.120, line 9;
Nixon, col.2, lines 1-15; col.4, lines 18-30, lines 43-49)

Response to Arguments

9. Applicant's argument with respect to *claim 1* has been considered but they are not persuasive.
10. With regard to *claim 1*, the Applicants point out that:
 - *The combination of the two cited references, therefore, does not teach or suggest 'querying a plurality of databases to determine the physical location of the affected device as well as a specific contact person in an appropriate maintenance department responsible for the affected device' as now claimed in claim 1. Claim 1 is therefore deemed to be patentable over the combination of Groath et al and Nixon et al and allowable under 35 USG 103(a).*

However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that Groath and Nixon disclose,

 - *receiving an error alert;* (Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-24)
Groath teaches of a method of providing service assurance for a network by "*monitoring a network for events and checking system functions and resources. Such events can include alarms, faults, alerts, etc.*" (Groath, col.10, lines 4-6).
 - *processing the error alert to create a subset of error data from the failure information including an identification of an affected one of the network devices;*
(Groath, col.2, lines 7-23; col.10, lines 2-8, lines 15-32; col.11, lines 43-62)

- Groath teaches of a “*collector [that] may be used to collect system information including events and performance data*” (Groath, col.10, lines 26-27). “*The data collected on the status of the network is manipulated and stored in a database*” (Groath, col.10, lines 21-22) for conveying graphically to the appropriate user.
 - *determining whether the error alert was generated due to an operating status of the identified network device or due to a fault in one of the communication pathways by remotely performing a diagnostic test on the identified network device*; (Groath, col.2, lines 7-23; col.10, line 64 – col.11, line 3; col.118, lines 11-44)
- Groath teaches of a step of “*determining the type of event that occurred*” (Groath, col.10, line 66) and “*generating at least one notification action associated with the determined type of event*” (Groath, col.10, lines 66 – col.11, line 1).
- *creating a job ticket to initiate device or network service, wherein the job ticket includes at least a portion of the failure information from the error alert and information gathered in the diagnostics performing*. (Groath, col.2, lines 7-23; col.10, line 33 – col.11, line 10; col.119, line 64 – col.120, line 9)
- Groath teaches of a generating “*at least one notification action ... based upon the occurrence of the event. The notification action may include an alphanumeric page, an e-mail message, a resolution script, a remedy trouble ticket, and/or a log message*” (Groath, col.10, lines 57-61). Groath also states that the notifier “*is able to forward alerts to specific individuals based on the contents of the alert*” (Groath, col.10, lines 40-41) showing that the notification message include at least a portion of the detected event.

- *querying a plurality of databases to determine the physical location of the affected device as well as a specific contact person in an appropriate maintenance department responsible for the affected device.* (Groath, col.2, lines 7-23; col.10, line 25 – col.11, line 20; col.34, line 65 – col.35, line 20; col.35, lines 39-51; col.119, line 64 – col.120, line 9)

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However, Groath does not explicitly disclose,

- *based on the determining, performing diagnostics on the identified network device or the communication pathway that caused generation of the error alert; and*

Nixon teaches,

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Nixon teaches of performing ping and trace route operations to determine the operating status of the network device and storing information, such as the trace route time, in the database for later analysis.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Nixon with the teachings of Groath to enhance a system that “*is capable of monitoring a network for events and checking system functions and resources. Such events can include alarms, faults, alerts, etc*” (Groath, col.10, lines 4-6) by actively performing ping and trace route operations to check the operating status of the network device. In response to an occurrence of a network event, the type of the occurred event is determined and “*at least one notification action is generated based upon the event and it may include an alphanumeric page, an e-mail message, a resolution script, a remedy trouble ticket, and/or a log message*” (Groath, col.10, lines 57-61).

Therefore, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571/272-6159. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

Thomas Duong (AU2145)

August 18, 2005



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER